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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-410
VAC Chapter title(s)	Occoquan Policy
Action title	Revisions to CH 410 in response to SB 567 and SB 657 (2022 GA session)
Final agency action date	June 22, 2022
Date this document prepared	May 17, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action changes the existing language of the regulation (G 2 of 9VAC25-410-20) to incorporate a provision that Virginia Pollutant Discharge Elimination System permits may also be issued to an existing sewage treatment plant constructed and placed into service prior to January 1, 2001, serving no less than 10 homes but no more than 25 homes if such sewage treatment plant has a documented history of substantial noncompliance and it is not feasible to connect to a publicly owned sewage treatment plant. Chapter 410 is also amended to address changes to the authority of the State Water Control Board. Section 2.2-4006 A 4 a of the Administrative Process Act allows the Board to adopt a regulatory amendment that is necessary to conform to changes in Virginia statutory law. This regulation is required to conform the existing regulation to changes directed by Chapter 144 of the 2022 Acts of Assembly (SB 567) and Chapter 356 of the 2022 Acts of Assembly (SB 657).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). “Mandate” is defined as “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

SB 567 and SB 657 were passed during the 2022 Session of the General Assembly. SB 567 directs the State Water Control Board to amend subdivision G 2 of 9VAC25-410-20 of the Virginia Administrative Code (The Occoquan Policy) to provide that VPDES permits may also be issued to an existing sewage treatment plant constructed and placed into service prior to January 1, 2001, serving no less than 10 homes but no more than 25 homes if such sewage treatment plant has a documented history of substantial noncompliance and it is not feasible to connect to a publicly owned sewage treatment plant. Chapter 410 is also amended as directed by SB 657. SB657 limits the authority of the State Water Control Board under Chapters 3.1 (State Water Control Law), 24 (Surface Water Management Areas) and 25 (Ground Water Management Act of 1992), to the issuance of regulations, and transfers the Board’s existing authority to issue permits and orders to the Department of Environmental Quality. The Governor signed these bills into law on April 7, 2022 (SB 567 – Chapter 144 of the 2022 Acts of Assembly) and April 11, 2022 (SB 657 – Chapter 356 of the 2022 Acts of Assembly) and these statutory changes will become effective July 1, 2022. This regulatory action is required to conform the existing regulation to changes in Code.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Water Control Board adopted these amendments to 9VAC25-410 on June 22, 2022 as a final regulation and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.